

ORDINANCE NO. 49-000

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE 13<sup>th</sup> STREET NORTH, HIGHWAY I-135 TO OLIVER STREET IMPROVEMENT PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the development of the 13<sup>th</sup> Street North from Highway I-135 to Oliver Street Improvement project in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

All of Lots 97 & 99, Eleventh Street Addition, an addition to Wichita, Sedgwick County, Kansas and

All of Lot 1, Block A, and also all of the Contingent Street Right-of-way dedication all as platted in Curry-Roberts Addition, an addition to Wichita, Sedgwick County, Kansas and

Parts of Lots 2, 4, 6, & 8, on Alice Avenue (now Green Avenue) in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the East 40 feet of lots 2, 4, 6, & 8, on Alice Avenue (now Green Avenue) in Fairmount Park Addition and

Parts of Lots 1, 3, 5, & 7, on Academy Avenue (now Volutsia Avenue) in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the West 60 feet of lots 1, 3, 5, & 7, on Academy Avenue (now Volutsia Avenue) in Fairmount Park Addition and

Parts of Lots 1, 3, 5, & 7, on Academy Avenue (now Volutsia Avenue) in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the East 75 feet of Lots 1, 3, 5, & 7, on Academy Avenue (now Volutsia Avenue) in Fairmount Park Addition and

Parts of Lots 2, 4, 6, & 8, on Mt. Vernon (now Erie Avenue) in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the East half of Lots 2, 4, 6, & 8, on Mt. Vernon (now Erie Avenue) in Fairmount Park Addition and

Parts of Lots 1, 3, 5, & 7, on Lorraine Avenue in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the West half of Lots 1, 3, 5, & 7, on Lorraine Avenue in Fairmount Park Addition and

A tract of land in Lot 33 & 34, except that part dedicated by Deed recorded on film 2206 on page 1407, Rosenthal's 2nd Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the West 100.00 feet of said Lot 33 & 34, except that part dedicated by Deed recorded on film 2206 on page 1407, Rosenthal's 2nd Addition and

All of Lots 35, 36, 60, 61, 62, 63, 64, 65, 66 and 67 on Herbert Avenue, now Minneapolis, in Rosenthal's 2nd Addition, an addition to Wichita, Sedgwick County, Kansas and

All of Lots 47 & 48, Block 3, Country Club Heights Addition, an addition to Wichita, Sedgwick County, Kansas and

All of Lots 1 & 2, Block 3, Country Club Heights Addition, an addition to Wichita, Sedgwick County, Kansas.

Permanent easements for right of way, public utilities and related uses in and to the following-described tracts, to-wit:

A tract of land in Lots 2, 4, 6, & 8, on Mabel Avenue (now Estelle Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the remaining south 5.00 feet of the west half of said Lot 2 on Mabel Avenue (now Estelle Avenue), as platted in Fairmount Park Addition and

A tract of land in Lots 2, 4, 6, & 8, on Mabel Avenue (now Estelle Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the east half of said Lot 2 on Mabel Avenue (now Estelle Avenue), as platted in Fairmount Park Addition and

A tract of land in Lots 1, 3, 5, & 7, on Mt. Vernon Avenue (now Erie Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the west half of said Lot 1 on Mt. Vernon Avenue (now Erie Avenue), as platted in Fairmount Park Addition and

A tract of land in Lots 2,4,6,8,10 & 12, Baldock's Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the North 20.00 feet of the West 45 feet of the East 75 feet of Lot 2 as platted in Baldock's Addition. AND all of the North 20 feet of the East 30 feet of Lot 2 as platted in Baldock's Addition. AND all of the North 20 feet of the West 15 feet of vacated Holyoke Avenue adjoining the East line of Lot 2 in Baldock's Addition and

A tract of land within a tract commencing at a point 390 feet East and 30 feet South of the Northwest corner of Section 14, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence South 262.66 feet; thence East 130.74 feet; thence North 262.66 feet; thence West 130.74 feet to the place of beginning, more particularly described as follows: Beginning at a point 390.00 feet east & 30.00 feet south of the Northwest corner of the Northwest ¼ Sec14-T27S-R1E; thence southerly 25.00 feet along west line of said tract; thence easterly 130.74 feet along a line parallel with the north line of said tract; thence northerly 25.00 feet along east line of said tract; thence westerly 130.74 feet along north line of said tract to the point of beginning and

A tract of land in Lot 15, Block C, Yale Heights Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the south 5.00 feet of said Lot 15, Block C, as platted in Yale Heights Addition and

A tract of land in Lots 36,38, & 40, on Fairmount Avenue, Fairmount Place Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 25.00 feet of said Lot 40 on Fairmont Avenue, as platted in Fairmount Place Addition and

A tract of land in Lots 188 & 190, on Fairmount Avenue, Fairmount Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the south 10.00 feet of said Lot 190 on Fairmount Avenue, as platted in Fairmount Addition and

A tract of land in Lots 33, 35, 37, & 39, on Vassar Avenue, Fairmount Place Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 25.00 feet of said Lot 39 on Vassar Avenue as platted in Fairmount Place Addition and that part of the vacated 10.00 feet of Vassar Avenue adjoining the north 25.00 feet of said Lot 39 and

A tract of land in Lot 1, Cherrywynd Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 10.00 feet of said Lot 1 as measured perpendicularly to the north line of said Lot 1, as platted in Cherrywynd Addition.

Temporary construction easements for driveway, drainage and road construction in and to the following-described tracts, to-wit:

A tract of land in Lots 2, 4, 6, & 8, on Mabel Avenue (now Estelle Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 15.00 feet of the west half of said Lot 4 on Mabel Avenue (now Estelle Avenue), as platted in Fairmount Park Addition and

A tract of land in Lots 2, 4, 6, & 8, on Mabel Avenue (now Estelle Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 15.00 feet of the east half of said Lot 4 on Mabel Avenue (now Estelle Avenue), as platted in Fairmount Park Addition and

A tract of land in Lots 2,4,6,8,10 & 12, Baldock's Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the West 45 feet of the East 75 feet of Lot 2 except the north 20 feet thereof, as platted in Baldock's Addition. AND all of the east 30 feet of Lot 2 except the north 20 feet thereof, as platted in Baldock's Addition. AND all of the west 15 feet of vacated Holyoke Avenue adjoining the East line of Lot 2 except the north 20 feet thereof, in Baldock's Addition. All of the north 5.00 feet of the west 45 feet of the east 75 feet of Lot 4 as platted in Baldock's Addition. AND all of the north 5.00 feet of the east 30 feet of Lot 4 as platted in Baldock's Addition. AND all of the north 5.00 feet of the west 15.00 feet of vacated Holyoke Avenue adjoining the east line of Lot 4 in Baldock's Addition and

A tract commencing at a point 390 feet East and 30 feet South of the Northwest corner of Section 14, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence South 262.66 feet; thence East 130.74 feet; thence North 262.66 feet; thence West 130.74 feet to the place of beginning.

Beginning at a point 390.00 feet east & 55.00 feet south of the Northwest corner of the Northwest  $\frac{1}{4}$  Sec14-T27S-R1E; thence southerly 20.00 feet along west line of said tract; thence easterly 130.74 feet along a line parallel with the north line of said tract; thence northerly 20.00 feet along east line of said tract; thence westerly 130.74 feet along north line of said tract to the point of beginning and

A tract of land in Lot 15, Block C, Yale Heights Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 5.00 feet of the south 10.00 feet of said Lot 15, Block C, as platted in Yale Heights Addition and

A tract of land in Lots 33,35,37, & 39, on Vassar Avenue, Fairmount Place Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the west 30.00 feet of Lot 39 on Vassar Avenue, except the north 25.00 feet thereof, ALSO, the west 30.00 feet of the north 20.00 feet of Lot 37 on Vassar Avenue, all as platted in Fairmount Place Addition and

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 3<sup>rd</sup> day of May, 2011.

**CITY OF WICHITA**

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Carl Brewer, Mayor

**ATTEST:**

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Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

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Gary E. Rebenstorf, Director of Law